

# Introduction to the role and work of EIOPA

*European Insurance and Occupational Pensions Authority*

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## Overview

1. New EU framework for financial supervision
2. EIOPA
3. Evaluation and the future



## Background New EU framework for financial supervision

“The financial crisis has revealed important shortcomings in financial supervision, which has failed to anticipate adverse macro-prudential developments and prevent the accumulation of excessive risks in the financial sector, and has in particular highlighted the weaknesses of the existing macro-prudential oversight.”

Co. 1 Reg. 1092/2010

## New EU framework for financial supervision Background & Timeline

- Financial crisis in 2007 and 2008 prompted a **review** of supervisory model
- November 2008: European Commission mandated a High Level Group, the Committee of Wise Men, chaired by Jacques de **Larosière** to make recommendations on how to strengthen European supervisory arrangements
- February 2009: De Larosière Report published:
  - Committee of Wise Men recommends reforms to the structure of supervision of the financial sector in the European Union
  - Committee also concluded that a **European System of Financial Supervisors** should be created and recommended the creation of a **European Systemic Risk Council**
- March & May 2009: European Commission proposed to put forward draft legislation and details about its possible architecture.

## New EU framework for financial supervision Background & Timeline

- 19 June 2009: **European Council confirmed that a European System of Financial Supervision (ESFS)** should be established.
- 22 September 2010: European Parliament approved legislation allowing establishment of European Supervisory Authorities (ESAs)
- **1/1/2011: installation of**
  - the European supervisory framework of the financial system (ESFS)
  - The European systemic risk board (ESRB)
  - Three sectors: the three ESAs
    - EBA (European Banking Authority)
    - EIOPA (European insurance and occupational pensions authority)
    - ESMA (European securities and markets authority)

## The EU framework for financial supervision Legal sources

- Five regulations and one directive
- Reg. 1092/2010: **ESRB** - European systemic risk board
- Reg. 1096/2010: ECB: secretariat ESRB
- Reg. 1093/2010: **EBA** - European Banking Authority
- Reg. 1094/2010: **EIOPA** - European insurance and occupational pensions authority
- Reg. 1095/2010: **ESMA** - European securities and markets authority
- Directive 2010/78
  - Omnibus directive
  - For all three ESAs (EBA, EIOPA and ESMA)

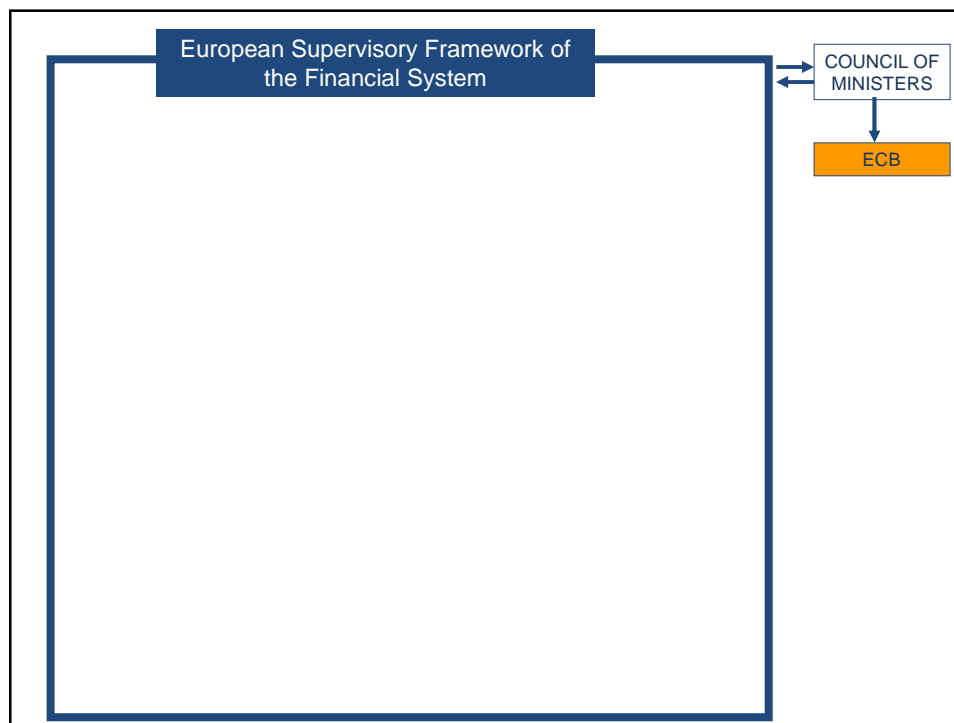
## The installation of the ESFS

European supervisory framework of the financial system

EC  
+  
EP

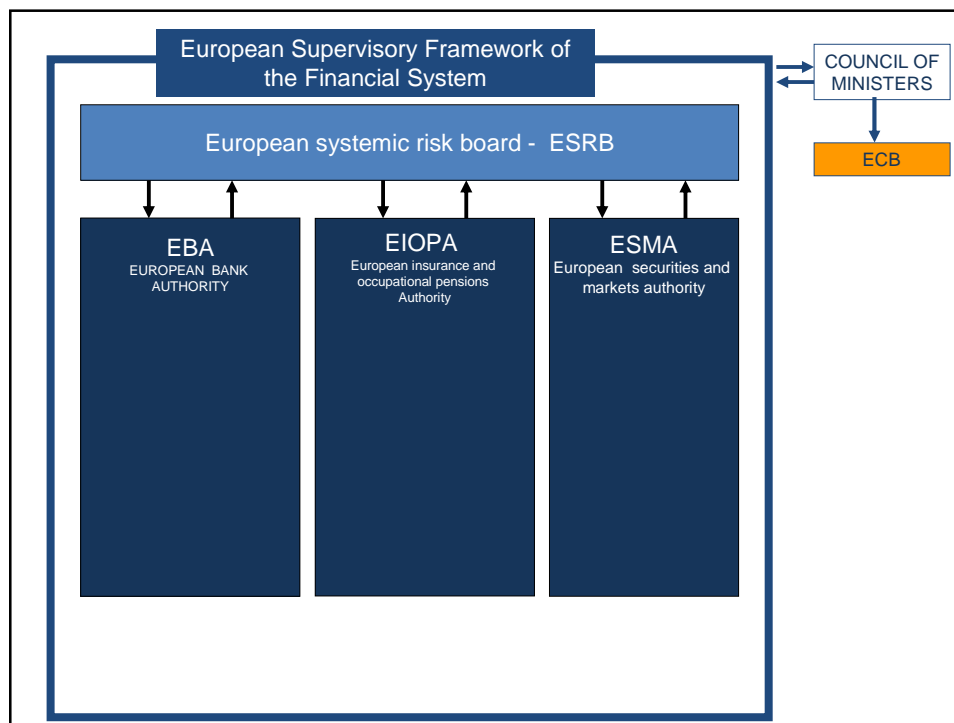


Council of ministers  
+  
Member States



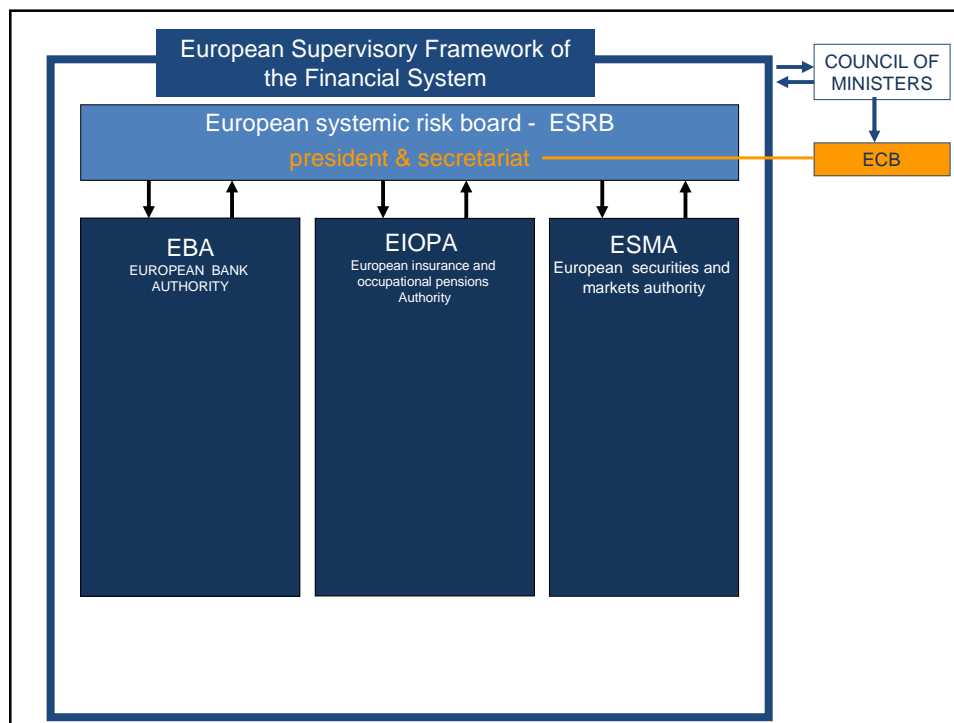
## ESRB (Regulation 1092/2010) European systemic risk board

- “above the three ESAs” and the overall organisation
- = the so called “club of number crunchers”
- = the information broker for all (EBA, EIOPA, ESMA, EC, ...)
- = spider in the information network
- Macro prudential level
  - Information gathering
  - Analyses of the markets and its players
  - Interpretation of systemic risks
- Powers: recommendations under the principle “comply or explain”
- Legal basis 114 TFEU (old 95) – see addendum



## ESRB (Regulation 1096/2010) European systemic risk board

- Direct link with the ECB
- President of the ESRB = president of the ECB
- Secretariat: ECB
  - Analysis
  - Statistics
  - Administration
  - logistics
- Thus: ECB is real “power” in ESRB
- Legal basis: art. 127, 6 TFEU – see addendum



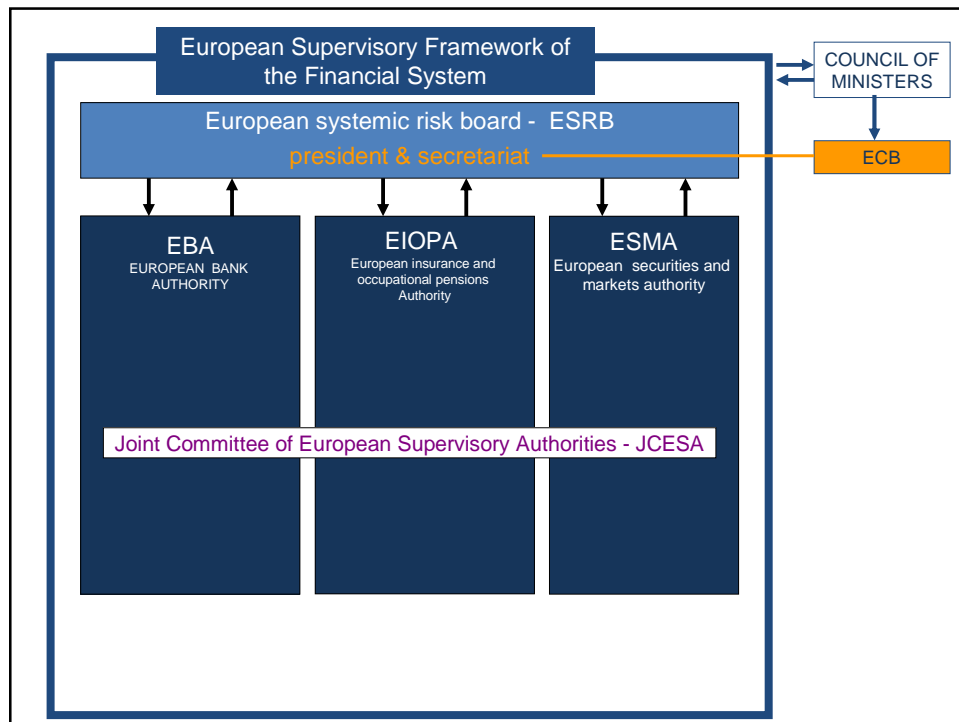
## EBA (Regulation 1093/2010) European Bank Authority

- Predecessor: CEBS (committee of European Banking Supervisors)
- Legal basis: also art. 114 TFEU
- Consumer protection: art. 9 Regulation 1093/2010
- Systemic risks: art. 22, 23 and 26 Regulation 1093/2010 – see addendum

## JCESA

Joint Committee of European Supervisory Authorities

- Connection between the three ESAs
- Powers
  - Financial conglomerates
  - Fraud
- Also special sub-committee on Financial Conglomerates

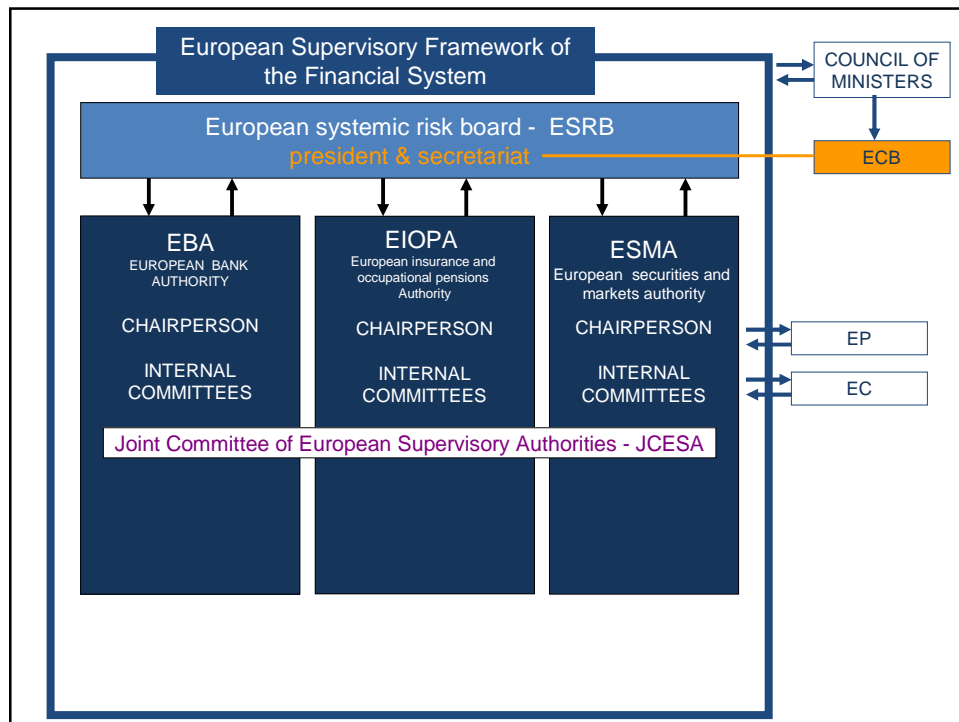


## Powers conferred to the

- EP : appoints the chairpersons
- EC: joins in all internal committees and panels



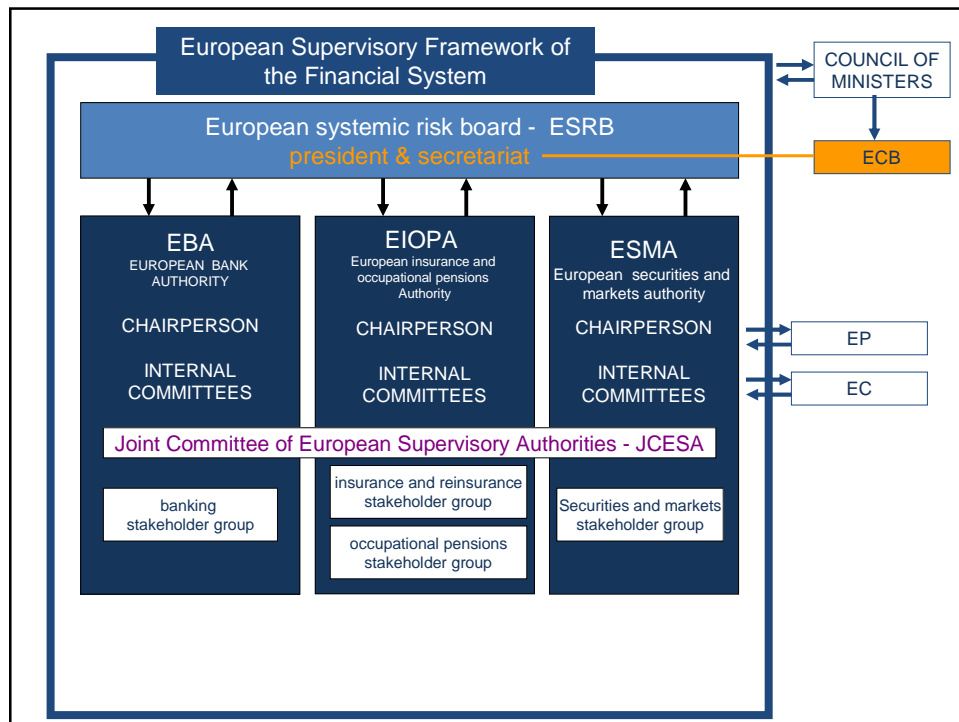




## Stakeholders

- NEW roles for stakeholders
- Within every ESA



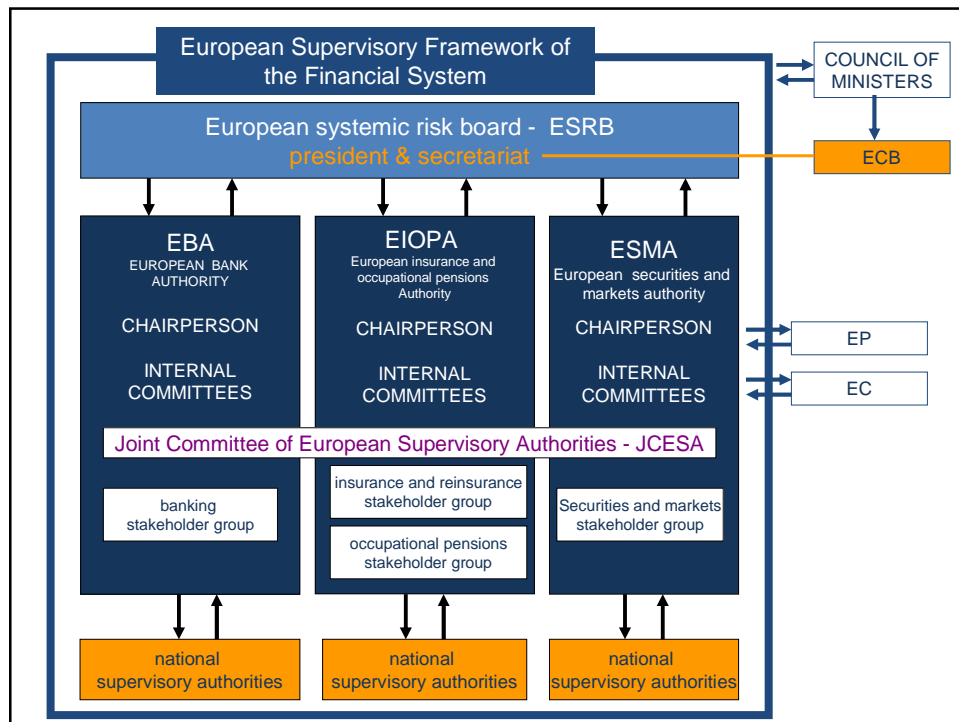


## The National Supervisors

### Final powers remain with Member States

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- The European System of Financial Supervision (ESFS) is an integrated network of national and European supervisory authorities
- ESAs and national supervisory authorities are independent from each other with clearly confined responsibilities
- Each ESA is governed by its Board of Supervisors, which integrates national authorities
- The EU's national supervisory authorities are a source of expertise and information
- Best practice: close cooperation between EIOPA and national supervisors
- National supervisors will continue to provide day-to-day supervision
- National supervisors keep direct link to industry; involved in coordination of activities such as QIS5 (Quantitative Impact Study), stress testing



## Evaluation of the new EU framework for financial supervision

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- First time 2014 and then every three years
- On ERSB and the three ESAs
- What?
  - Convergence of supervisory practices
  - Crisis prevention
  - Management
  - BUT MAINLY (art. 81 Reg. 1093/2010)
    - Is the sectoral approach a good one?
    - Should the three ESAs remain or not? Perhaps better 1 authority in one location instead of three (London, Frankfurt and Paris)



# Overview

1. New EU framework for financial supervision

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# Legal status

- CEIOPS: committee; now: authority
- Legal personality as well as administrative and financial autonomy
- Autonomous budget with revenues mainly from obligatory contributions from national supervisory authorities and EU's General Budget
- All CEIOPS existing tasks and competences including the continuation of ongoing work and projects
- Accountable to the European Parliament and the Council of the European Union



## Powers

- Develop draft regulatory and implementing technical standards
- Issue guidelines and recommendations on the application of EU law to ensure consistent application of EU law
- In certain cases, require national supervisory authorities to take specific actions to remedy an emergency situation
- Settle disagreements in cross-border situations between authorities, including within colleges of supervisors
- Participate in colleges of supervisors

## EIOPA: main Objectives

- Better protecting consumers, rebuilding trust in the financial system
- Establishing a European single rule book
- Greater harmonisation and coherent application of rules
- Ensuring a high, effective and consistent level of regulation and supervision
- Foster supervisory convergence across the EU
- Promote coordinated EU supervisory response
- Strengthening oversight of cross-border groups

## EIOPA: main Objectives

- Protection of policyholders, pension scheme members and beneficiaries
- Support financial stability, transparency of markets and financial products
- Monitor and identify trends, potential risks
- Independent advisory body to the EU institutions in the area of insurance, reinsurance and occupational pensions
- Prevent regulatory arbitrage, guarantee level playing field, strengthen international supervisory coordination
- Foster dialogue and cooperation with supervisors outside the EU and international organisations

## Composition of EIOPA

- Management
  - Full-time Chairperson (Gabriel Bernardino), appointed by the Board of Supervisors and confirmed by the European Parliament within one month after selection by the Board of Supervisors
  - Board of Supervisors: principal decision making organ, composed of:
    - Chairperson (non-voting)
    - relevant competent authority in each Member State
    - representative of the European Commission, ESRB, EBA and ESMA to participate as observers (non-voting)
  - Management Board ensures that EIOPA carries out its mission and performs the tasks assigned to it. Composed of:
    - Chairperson of EIOPA
    - Six representatives of national supervisory authorities
    - representative of the European Commission
- Executive Director (Carlos Montalvo) : management of EIOPA
- Joint Committee of European Supervisory Authorities: coordinates activities of the European Supervisory Agencies (ESAs) and coordinates functions in relation to financial conglomerates and other cross-sectoral issues
- Board of Appeal: gives parties right to appeal decisions of ESAs. Joint body of ESAs, independent from their administrative and regulatory structures. Composed of six members and six alternates

## EIOPA headcount

- By 1 April 2011, 37 headcount up from 16 in 2009
  - 19 nationalities - 28 temporary agents, 3 contract agents and 6 secondees (national contract)
- Target headcount 40-50 in 2011, and roughly 100-120 by 2013/2014
- Experts on drafting technical standards, with supervisory background for colleges, supporting staff

## A particularity about EIOPA

Art. 26 Reg. 1094/2010

### *Article 26*

#### **Development of a European network of national insurance guarantee schemes**

The Authority may contribute to the assessment of the need for a European network of national insurance guarantee schemes which is adequately funded and sufficiently harmonised.

# EIOPA website

## RECENTLY PUBLISHED

### 26 July 2011 - Report

EIOPA publishes Report on Market Developments 2011.

[more](#)

### 26 July 2011 - Report

EIOPA publishes Report on Risks Related to Defined Contribution Pension Plan Members.

[more](#)

### 26 July 2011 - Report

EIOPA publishes Report on Risk Mitigation Mechanisms for Defined Contribution Related Risks.

[more](#)

### 07 July 2011 - Report

EIOPA published its First Half-Year Financial Stability Report 2011.

[more](#)

### 04 July 2011 - Press Release

EIOPA announced the results of the second European insurance stress test.

[more](#)

## OCCUPATIONAL PENSIONS

On 7 July 2010, the European Commission launched a Europe-wide public debate on how to ensure adequate, sustainable and safe pensions and how the EU can best support the national efforts. This [Green Paper on pensions](#) (click [here](#) to read the press release) seeks the views of all stakeholders in the EU on whether, and how, the EU level pension framework should be adjusted to best support Member States in ensuring they achieve their agreed goal of adequate and sustainable pensions for EU citizens.

EIOPA's predecessor, the Committee of European Insurance and Occupational Pensions, submitted its [response to the Green Paper](#) to the European Commission on 15 November 2010.

### Call for Advice IORP Directive

The European Commission decided to initiate a review of the directive on activities and supervision of institutions for occupational retirement provision (IORP Directive), which will be by far the biggest and most high profile part of EIOPA's work in the occupational pensions area in 2011.

In April 2011, the European Commission issued a Call for Advice to EIOPA on the review of the IORP Directive. Click [here](#) to read the Call for Advice and related documents.

### Consultation IORP Directive

EIOPA is asked to provide advice on the legislative framework for IORPs by mid-December 2011. To provide this advice, EIOPA invites market participants and occupational pensions stakeholders to provide comments on the "Draft Response to Call for Advice".

EIOPA is currently seeking input on nine of the 23 areas contained in the Call for Advice.

This consultation starts on **Friday, 8 July, 2011 and ends on Monday, 15 August, 2011 at 18.00 HRS CET.**

Comments should be submitted via email to [firstconsultationiorp@eiopa.europa.eu](mailto:firstconsultationiorp@eiopa.europa.eu). Comments submitted after the deadline or not submitted on the provided template cannot be processed.

## EIOPA AND REVIEW OF IORP DIRECTIVE



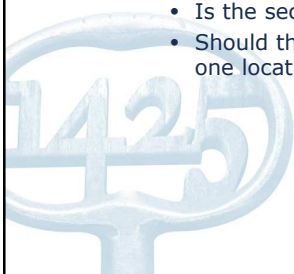
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# What will the future bring?

- The single rule book?
- An ESA that “passes over” a national supervisory authority?



Thank you for your attention!



**QUESTIONS:** [yves.stevens@law.kuleuven.be](mailto:yves.stevens@law.kuleuven.be)

# ADDENDA

## Legal basis of the ESRB Art. 114 TFEU (old 95 TEC)

Article 114 TFEU  
(ex Article 95 TEC)

1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.
  2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.
  3. The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
  4. If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.
  5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.
  6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.
- In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.
- When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.
7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.
  8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.
  9. By way of derogation from the procedure laid down in Articles 258 and 259, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.
  10. The harmonisation measures referred to above shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article 36, provisional measures subject to a Union control procedure.

## Legal basis of the link between ECB and the ESRB

### Art. 127, 6 TFEU (old 105 TEC)

#### Article 127

(ex Article 105 TEC)

1. The primary objective of the European System of Central Banks (hereinafter referred to as "the ESCB") shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.
2. The basic tasks to be carried out through the ESCB shall be:
  - to define and implement the monetary policy of the Union,
  - to conduct foreign-exchange operations consistent with the provisions of Article 219,
  - to hold and manage the official foreign reserves of the Member States,
  - to promote the smooth operation of payment systems.
3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.
- ...
6. The Council, acting by means of regulations in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer **specific tasks** upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

## EBA

### Consumer protection (art. 22, 23, 26 Regulation 1093/2010)

#### Tasks related to consumer protection and financial activities

1. The Authority shall take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by:
    - (a) collecting, analysing and reporting on consumer trends;
    - (b) reviewing and coordinating financial literacy and education initiatives by the competent authorities;
    - (c) developing training standards for the industry; and
    - (d) contributing to the development of common disclosure rules.
  2. The Authority shall monitor new and existing financial activities and may adopt guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence of regulatory practice.
- The Authority may also issue warnings in the event that a financial activity poses a serious threat to the objectives laid down in Article 1(5).
- 4.
- The Authority shall establish, as an integral part of the Authority, a Committee on financial innovation, which brings together all relevant competent national supervisory authorities with a view to achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice for the Authority to present to the European Parliament, the Council and the Commission.
- 5.
- The Authority may temporarily prohibit or restrict certain financial activities that threaten the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union in the cases specified and under the conditions laid down in the legislative acts referred to in Article 1(2) or, if so required, in the case of an emergency situation in accordance with and under the conditions laid down in Article 18.
- The Authority shall review the decision referred to in the first subparagraph at appropriate intervals and at least every 3 months. If the decision is not renewed after a 3-month period, it shall automatically expire.
- A Member State may request the Authority to reconsider its decision. In that case, the Authority shall decide, in accordance with the procedure set out in the second subparagraph of Article 44(1), whether it maintains its decision.
- The Authority may also assess the need to prohibit or restrict certain types of financial activity and, where there is such a need, inform the Commission in order to facilitate the adoption of any such prohibition or restriction.

# Art. 81 Reg. 1093/2010

## Review

1. By 2 January 2014, and every 3 years thereafter, the Commission shall publish a general report on the experience acquired as a result of the operation of the Authority and the procedures laid down in this Regulation. That report shall evaluate, inter alia:

- (a) the convergence in supervisory practices reached by competent authorities;
- (i) the convergence in functional independence of the competent authorities and in standards equivalent to corporate governance;
- (ii) the impartiality, objectivity and autonomy of the Authority;
- (b) the functioning of the colleges of supervisors;
- (c) the progress achieved towards convergence in the fields of crisis prevention, management and resolution, including Union funding mechanisms;
- (d) the role of the Authority as regards systemic risk;
- (e) the application of the safeguard clause established in Article 38;
- (f) the application of the binding mediation role established in Article 19.

2.

The report referred to in paragraph 1 shall also examine whether:

- (a) it is appropriate to continue separate supervision of banking, insurance, occupational pensions, securities and financial markets;
- (b) it is appropriate to undertake prudential supervision and supervise the conduct of business separately or by the same supervisor;
- (c) it is appropriate to simplify and reinforce the architecture of the ESFS in order to increase the coherence between the macro and the micro levels and between the ESAs;
- (d) the evolution of the ESFS is consistent with that of the global evolution;
- (e) there is sufficient diversity and excellence within the ESFS;
- (f) accountability and transparency in relation to publication requirements are adequate;
- (g) the resources of the Authority are adequate to carry out its responsibilities;
- (h) it is appropriate for the seat of the Authority to be maintained or to move the ESAs to a single seat to enhance better coordination between them.

3.

Concerning the issue of direct supervision of institutions or infrastructures of pan-European reach and taking account of market developments, the Commission shall draw up an annual report on the appropriateness of entrusting the Authority with further supervisory responsibilities in this area.<sup>4</sup>

The report and any accompanying proposals, as appropriate, shall be forwarded to the European Parliament and to the Council.